

# HHARNAIN

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VINITA, IND. TER., MONDAY EVENING. NOVEMBER 5, 1900.

PRICE 10c WEEK

THE \$4,000,000 CLAIM.

Col. Owen Taken to Task For His Interference.

EDITOR CHIEFTAIN: -- Col. Robt. L. Owen speaking, through the columns of the Muskogee Phoenix in reference to the Cherokee \$4,-000,000 claim, has this to say: "It national council, if it does anyhands of the eastern Cherokees, who have already made most substantial progress toward the collection of the money due them. In all human probability, the eastern Cherokees will collect the money due them this winter, and they will certainly not expect any interference at the hands of anybody,"

Complacency a-horseback! Selfassurance full a drive on an automobile! Wonder if the Colonel is as familiar with the law of his case as he is with his own desires in reference to it. We would like to ask him a few legal questions bearing upon his contention, basing our first installment of interrogatories upon an hypothetical case. Suppose A owns the legal title to a plece of land in which B holds a valid equitable interest; and suppose A sells the land to C for a valuable consideration, conveys to C, and receives the money; and afterwards B, having taken no part in the negotiation, but subsequently hearing incidentally of what A had done, assents in writing to the whole transaction.

What now, in a case of this kind, is the legal predicament of A, B, and C in reference to the land, and consideration, in question? Will the Colonel tell us? Does not C get the land clear of the legal title of A and the equitable lien of B? Did B surrender absolutely anything of his equitable interest in the proceeds of the sale? If not but it is our intention, when the then did not A become the trustee of B's equitable interest in the consideration money? Would the law allow A to ignore B's equity and pocket to his own use the whole of this consideration? Would not a court of equity hold A to be simply the trustee of B's interest in this money and compel him to carry out the trust by paying over to B, in due time, his proportional part of it?

Should the Colonel prove compentent to answer these questions of law and equity correctly, we have no doubt but that he will be able to understand easily enough the respective rights of the eastern Cherokees, and the western Cherokees in reference to this \$4,300,-

000 claim. If, now, we substitute in this hypothetical case the name of the "eastern Cherokees" for A, the "western Cherokees" for B, and the "United States" for C, we shall have precisely the real case do. No one will be disposed to question but that the eastern Cherokees held the legal title to the Cherokee lands east of the Mississippi river. That the western Cherokees acquired an equitable interest in the same lands by operation of the treaty of 1828 appears, from the 4th section thereof, to be indisputable. The eastern journed their convention or count the Deep Fork neighborhoods and Cherokees sold these lands to the cil but are calling little meetings other portions of the Northern dis-United States, and no provision in their towns for the purpose of trict, have riotously, unlawfully Mr. Davis will return from his cam

protection of this equitable interest, which interest, in the words of the treaty, "should have been provided for, but was not." Had this been all, this equitable interest of the western Cherokees would have been unimpaired; for the eastern Cherokees had no power to bar it by any deal that they could make with the United States. But the western Cherokees assentis the plain duty of the Cherokee ed to the sale. (See supplement to the treaty of 1835,) and this enthing in the matter, to hold up the abled the United States to take the land absolutely clear of this equity, notwithstanding the words in the 4th article of the treaty of 1946: "Therefore they have an equitable claim upon the United States for the value of that interest." The western Cherokees forewent their claim upon the land; but they never at any time gave up their interest in the moneyed proceeds of the sale which was, (according to the 15th article of the treaty of 1835) to be paid over into the hands of the eastern Cherokees. As far as the interest of the western Cherokees in this money is concerned, it went, (or was to go) into the hands of the eastern Cherokees as the trustees of the western Cherokees; and the latter is in a position to compel the former to fulfill the trust by paying over, in due time, to the western Cherokees their proportional part thereof. Now, if this cannot be done, then let Col. Owen tell us what becomes of that common interest which the western Cherokees, (in the language of the treaty of '46,) "acquired in the lands occupied by the Cherokees east of the Mississippi?" Is it his plan to rob the western Cherokees to that amount?

We have no objections to offer against the efforts of the Colonel and his associate attorneys to collect this money; nor against any amount of percentage that he may induce the emigrant Cherokees to ive him for his eminent services collection is made, to object most stoutly to the taking of a single cent of our one third for the satisfaction of any speculative job that the Colonel may contrive.

What right has Col. Owen and his clients, the eastern Cherokees, to meddle with that interest which the western Cherokees "acquired" by the treaty of 1828,"in the lands rise and tell us candidly?

TOO-QUA STEE.

### TO DISPERSE THE MOB

Creek Chief and U. S. Marshal to Quell Insurrection.

The following letter of Chief the proclamation of Marshal Bennett indicate the dangerous state ject them to rule. of affairs among the Creeks that is about to culminate in bloodshed. in which the Colonel is having to It indicates also that the United States authorities will permit no mobs in the Indian country to take the laws in their own hands,

EXECUTITE OFFICE, Okmulgee, I. T., Nov. 2, 1900. j. HON. J. BLAIR SHOENFELT,

U. S. Indian Agent,

Muskogee, I. T.

**∃**Friday and Saturday Nov. 32 and 3.



### What Caused It?

Our wholesouled methods of giving people who patronize the store (that imitates no store) bargains that are unequaled. Look out for special effort displayed by others in trying to catch all the trade in the territory. We only want our share and will get it. Easy to do when we offer the trading public goods that are reliable at prices unequaled.

### This Shoe Sale

Will consist of shoes that we have only a few pairs of each kind and they are marked down at prices that will sell them all. Come early so you can get first pick.

Friday and Saturday, Nov. 2 and 3.

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Greatest Bargain Emporium in Vinita.

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to a tree wherever they find bim, United States; and whip him and cut off his ears, and Whereas, it has been made Office in new Halsell Bld'g. VINITA, I.T. other punishments.

will adjourn Monday, and some of of the United States: them have been notified that they are summoned before their council to hear the Snake law read. Your not coming back has given encouragement to those here that here without fail and tell our people that the Snake faction with their laws will not be permitted to interfers with the people. If you do not do this there will be trouble, perhaps bloodshed within the next two or three weeks, which would very much be regretted.

It you are not going to suppress Porter to the Indian Agent, and these people, notify us and we will establish our courts and sub-

> (Signed) P. PORTER, Principal Chief.

Proclamation by Leo. E. Bennett, United States marshal for the Tubes Northern District of the Indian store. Territory.

To whom these presents may concern, greeting:

Whereas, it has come to my knowledge that a number of citi-Sir:-The Snake faction has ad- zene of the Creek nation, living in was made in the bargain for the notifying their faction of the laws and tumultuously assembled and patening tour of Kansas tonight.

they have made, which they in- counseled together for the purpose DR. L. BAGBY tend to enforce. Among others, is of setting aside the laws of the a law to punish by whipping and United States, conspiring together fine any person that has a white to injure, oppress, threaten and man hired. Another is, whipping intimidate citizens in the free exwithout trial persons charged ercise and enjoyment of their with stealing-they intend to fol- rights and privileges secured by low the person, catch bim, tie bim the constitution and laws of the

known to me that a band, known Whi practice in all the United States Court, Aug 9 of the Indian Perritory. I write you this that you may as the "Snake Band," has organknow why there is a feeling of ized and is attempting to enforce dread among members of our coun- laws of its own, contrary to law cil on going home. This council and against the peace and nignity

Now, therefore, as authorized and directed by law, I, Leo. E Bennett, United States Marshal for Northern District of Indian Territory, do hereby command all then occupied by the Cherokees are partly in sympathy with the persons so banded or assembled east of the Mississippi," without their consent? Will the Colonel Inspector Wright should come and peaceably depart to their habitations or lawful business, under the pains and penalties pronouced by law against those who refuse and fail to obey this warning.

Given under my had at Muskogee, Ind. Ter., this 3rd day of November, A. D., 1900.

> LEO E. BENNETT, United States Marshal.

There is probably no disease more distressing and annoying than piles. Tabler's buckeye pile ointment is daily curing cases of years standing of inching and bleeding piles. The cure begins on the first application, a little perseverance makes the cure complete. Price 50 cents in bottles. 75 cents. People's drug

Gwenndale Items.

There is some talk of Pete Ware renting the Gwenndale farm, but Mr. Bardy, the watermelon king, will remain where he is.

stev. J. E. Wolfe is talking of going to litinois for a short time.

Mrs. Preston S. Davis and children returned today from Bestonville.

PHYSICIAN & SURGEON "

Office in Raymond building, Telephone 101 Residence Aldrich cottage, Telephone 110. Vinita. Ind. Ter.

W H. KURNEGAY,

Attorney at Law, and Notary Public.

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he Side, TORPID LIVER They Regulate the Bowels They Cure Sick Headache.

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